

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

Frank Staples, et al., *
*
Plaintiffs, *
v. * Civil No. 1:24-cv-00331-LM-TSM
*
Christopher Sununu, Governor, et al., *
*
Defendants. *

**MOTION TO STAY DISCOVERY PENDING RESOLUTION OF DEFENDANTS’
MOTION TO DISMISS PLAINTIFFS’ FIRST AMENDED COMPLAINT**

Defendants, New Hampshire Governor Kelly Ayotte, New Hampshire former Governor Christopher Sununu, the New Hampshire Attorney General, and Charles O’Leary, by and through counsel, the New Hampshire Office of the Attorney General, hereby move and state as follows:

1. By way of brief background, on or around February 18, 2025, Defendants filed Motions to Dismiss, arguing that Plaintiffs’ claims must be dismissed because, among other things, they fail to state a claim, are time barred, are not viable, and are barred by doctrines of immunity. *See* ECF Doc. Nos. 22 and 23.
2. Plaintiffs subsequently emailed various discovery requests to counsel for the Defendants. *See* ECF Doc. No. 35.
3. Defendants moved to suspend discovery pending ruling on their Motions to Dismiss. *See* ECF Doc. No. 42 (incorporated herein by reference).
4. Plaintiffs subsequently filed an Amended Complaint. ECF Doc. No. 48.

5. Accordingly, Defendants’ Motion to Stay Discovery was denied as moot, without prejudice to Defendants’ ability to seek to limit discovery going forward. ECF Doc. No. 53.
6. Defendants’ Motions to Dismiss were likewise denied without prejudice. ECF Doc. No. 53.
7. Having reviewed the Amended Complaint, Defendants plan once again to seek dismissal of Plaintiffs’ claims.
8. Accordingly, Defendants once again request that discovery in this matter be suspended pending the Court’s ruling on the Defendants’ forthcoming Motion to Dismiss.
9. As Defendants previously noted, “to access discovery mechanisms, a plaintiff must first produce a complaint that passes the plausibility test — a test that helps keep defendants from wasting time and money in discovery on ‘largely groundless’ claims.” *Schatz v. Republican State Leadership Comm.*, 669 F.3d 50, 56 (1st Cir. 2012) (emphasis in original) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 558 (2007)).
10. Suspending discovery pending ruling on the forthcoming Motion to Dismiss will allow the Plaintiffs’ claims to be put to this plausibility test before the parties are subjected to the “inevitably costly and protracted discovery phase” of litigation. *See Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 558 (2007) (cleaned up); *Schatz v. Republican State Leadership Comm.*, 669 F.3d 50, 56 (1st Cir. 2012) (“a claim must have some degree of plausibility before the parties are put through their discovery paces.”).

11. Because the relief requested herein is in contrast with relief previously requested by Plaintiffs, Defendants have not sought Plaintiffs' assent to this Motion. *See* ECF Doc. Nos. 33, 42

WHEREFORE, Defendants respectfully request that this Honorable Court:

- A. Grant this Motion;
- B. Suspend all discovery requests pending resolution of the Defendants' forthcoming Motion to Dismiss; and
- C. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted,

Kelly Ayotte, Governor
Christopher Sununu, former Governor
John Formella, Attorney General

By their attorney,

JOHN M. FORMELLA
NEW HAMPSHIRE ATTORNEY GENERAL

Dated: June 10, 2025

/s/ Shawna Bentley
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and

Charles O’Leary

By his attorney,

JOHN M. FORMELLA
NEW HAMPSHIRE ATTORNEY GENERAL

Dated: June 10, 2025

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent via First Class Mail on June 10, 2025 to Plaintiffs’ addresses as listed in the Complaint.

/s/ Shawna Bentley
Shawna Bentley